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TESTE: LILLIAN HART, CLERK
By [Signature] D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

COMMONWEALTH OF VIRGINIA)

v.)

CR 03-3089, CR03-3090 & CR03-3091

LEE BOYD MALVO)

RESPONSE TO MOTION TO EXCLUDE STATEMENTS
MADE BY THE DEFENDANT ON NOVEMBER 7, 2002

As ordered by this Court on October 9, 2003 the Commonwealth is making its best efforts to determine, if it can, what occurred during the untranscribed portions of the audiotape referred to as tape 5. Because of technical problems caused by outages yesterday in the Courthouse the Commonwealth asks the court to authorize the Commonwealth to provide the information to the defense not later than 4 pm on October 17, 2003.

Respectfully submitted,

ROBERT F. HORAN, JR
Commonwealth's Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response to Motion was mailed, postage prepaid, and faxed to Michael Arif, Counsel for Defendant, 8001 Braddock Road, # 105, Springfield, Virginia 22151 and Craig Cooley, Counsel for the Defendant, 3000 Idlewood Avenue, P.O. Box 7268, Richmond, Virginia 23221 this 16th day of October, 2003.

ROBERT F. HORAN, JR
Commonwealth's Attorney